



**SPECIAL MEETING OF THE COMMON COUNCIL  
MIDDLETOWN CONNECTICUT  
OCTOBER 8, 2015**

The Special meeting of the Common Council of the City of Middletown was held in the Council Chamber of the Municipal Building on Thursday, October 8, 2015 at 6 p.m.

**Present:**

Deputy Mayor Robert P. Santangelo; Councilman Thomas J. Councilman Serra, Councilwoman Hope P. Kasper, Councilman Grady L. Faulkner, Jr., Councilman Carl R. Chisem, Councilman Gerald E. Daley, Councilman Sebastian N. Giuliano, Councilwoman Deborah Kleckowski, Councilman David Bauer; and Common Council Clerk Marie O. Norwood.

**Absent:**

Mayor Daniel T. Drew, Corporation Counsel Daniel B. Ryan, Councilwoman Mary A. Bartolotta, Councilman James B. Streeto, and Councilwoman Sandra Russo Driska.

**1. Mayor calls meeting to order.**

**(Pledge of Allegiance - If Flag Available)**

The Acting Chair opens the meeting at 7 p.m. and asks Councilman Bauer to lead the public in the Pledge of Allegiance.

**(Council Clerk Reads the Call of the Meeting and Mayor declares call a legal call and meeting a legal meeting.)**

The Acting Chair declares the call a legal call and the meeting a legal meeting.

**2. Public Comment Opens**

The Acting Chair opens public comment at 7:02 p.m.

Mark Fong teacher at Keigwin and coach of a high school sport as well as other sports in town addresses the Park Bond Issue and turf fields. In the NFL, they spend many dollars on their teams and they have determined that turf fields especially in the cold weather are better. When fields become frozen, more injuries occur like concussions. Turf fields do not freeze. He has had issues in this area playing at Pat Kidney field 20 years ago and landed in a hole and tore two ligaments and his meniscus. He needs a knee replacement at age 40. It is another issue of safety that could be rectified with field turf. He did not take legal action against the city, but someone else could. Palmer Field is in the shape it is because it has its own crew. It has three full time employees at all times. Our fields are the way they are because we don't have the man power and irrigation to keep them. The third issue he states, he was fortunate to be nominated as national coach of the year and he went to Rochester, Minnesota and they have multiple turf fields in that city and the Mayo clinic is in that city.

**Noted for the record**

Councilman Faulkner takes his seat in the chamber at 7:06 p.m.

Mr. Fong lists the colleges that have turf fields. They all have field turf. He is struggling to understand why we feel it is not safe or fiscally responsible. I wanted to share this issue and it is probably over and now he is at a crossroads to vote on the park bond. We want more kids to play and more fields so they can play. Do I want to vote for the project knowing we can't take care of them instead of turf fields that are safer in other ways. It was not well thought out.

Ceba Vestergaard states the crossing guards have done everything the Council suggested and we spoke to the Labor Department and they stated emphatically that an MOU can be made even if a contract is in place and that is what MOU's are made for. Only the crossing guards would qualify for this; it is 20 hours, split shift and non-pension status. The remaining members would not be eligible. A council member said they thought that the crossing guard would be able to get the benefit any time after the 15 years. Their proposal takes into consideration fiscal responsibility. They are looking for what is right and what they have accrued. They have been

reasonable. Please allow a resolution to pass in a timely fashion. She hopes that the City would provide what was guaranteed for the nine remaining crossing guards.

Kimba Adams Crossing guard and thanks the Council members looking over the crossing guard packet to make a good resolution with Mayor Drew. On May 4 they came to the council knowing a good faith resolution would occur and they have used all methods of communication on the matter. They made a proposal and it was not accepted. Attorney Wisneski stated to her the city's position has not changed and there is nothing they can do. MOU's are made for and can be made during an existing contract. It has been done and is being done. For example there is one union's member for early retirement and pension; another is 11 members retaining past practice. There are six guards who retired with this benefit and they have earned the right for this benefit. All were negotiated by the City and Union. Good faith is about what can be done; we want what is right and just and label it MOU, incentive package, voluntary retirement, this matter can be resolved in good faith. We can come to an agreement. We have confidence the Council will approve our agreement and follow through with their support on their behalf. The nine crossing guards look for a timely and positive result with Mayor Drew.

Councilman Serra would like to waive the rules to have the city members come forward. Councilwoman Kleckowski seconds the motion. The vote is unanimous.

Attorney Wisneski comes forward. Councilman Serra states the confusing part in reading this and repealing the ordinance and they bargained and MOU grandfathering all City employees. The other is the resolution, 74-7 and he reads it. It is the grandfathering of the individuals before the March 9. The MOU, he doesn't see it saying you retire you don't get it and then it says grandfathering. Prior to 2009 when they were hired they had this, you have to make it clear to me.

Attorney Wisneski states the packet provided to you as well. He will reference the Memorandum of February 6, 2009. It is important that this Memo is made out specifically to caf workers, managers and crossing guards and written by Debra Milardo. What it says in the second paragraph is the PRC is entertaining a motion to repeal that ordinance and grandfather in all employees. She reads further that the benefits will be grandfathered and an individual hired prior to 2009 only have to work 15 years for medical benefits. They work part time and according to our rules, you would have to work 30 years part time to get 15 except they were exempted from that.

The beginning is about repealing the ordinance and then Now therefore, the first and second paragraphs are relevant. They will provide the benefits of 15 years of service. The second paragraph will be provided to them based on the current bargaining agreement. Three is new hires and 4 is the benefits are now in the agreement. The type of insurance benefits are subject to bargaining. Attorney Wisneski asks if they are entertaining this for an MOU. Councilman Serra asks it was 15 years and paying nothing. Attorney Wisneski stated they are grandfathered for 15 years. Councilman Serra and they have to pay. He can't understand they were under the assumption it was free; where is the fairness. Attorney Wisneski states the fairness was the offer to retire to receive the free HMO on retirement. The council repealed the ordinance. Councilman Serra states he thought they were going to be grandfathered in. The consideration of who had the amount of time and were not grandfathered doesn't seem fair. Attorney Wisneski states it was the subject and impact was bargained and the Council authorized the Mayor to sign it. The current contract is clear respective to benefits that all 466 people will pay. They pay 13% and the crossing guards pay the 13% and now they want free insurance upon retirement. It talks about the fact that this discussion was going on and the city was rescinding the free benefits. The second page of that memorandum provided with their checks, if you don't retire you pay for benefits per the contract. After this MOU was signed, there was a contract negotiated and this issue was incorporated in the contract and on page 39 there was a new section non pension employees and it took the language from the MOU and the city will provide post employee benefits based upon the applicable terms of the contract which is 13%. They have spent a lot of time on this investigation and she has met with them and the Union rep and she was looking to see if anything was promised and it is a clear packet of information and is similar to memos written by the assistant to the Mayor and the former personnel director. Six retired in February, 2009 to get the free HMO; they did not retire at that time. To respond to Councilman Serra, the Union was involved in it. She refers to the Personnel Review Commission meeting February 9 about this subject. On the fourth page of this meeting are the union members. There were a lot of members aware at the time. I do think the packet I provided is a good example of what I found.

Councilman Serra states it is clear grandfathered, and the point is his recollection that it was grandfathered and individuals who didn't have 15 and could not retire, they have to pay premium. Attorney Wisneski states they did not have the years and had not earned the benefit.

Councilman Daley states from reading through this his understanding and the MOU and grandfathering, the effect of that is to give the crossing guards a benefit better than other part time employees and they get medical benefits and that is how it is grandfathered. They are already enjoying a greater benefit than other part time employees. The other crossing guards were able to retire and keep the free HMO and that is evidenced that nine of them did. Those who were short of that, they were just short of it and could not retire with free medical benefits

and the Union preserved the greater benefits in the MOU and in effect the crossing guards seem to be requesting a benefit greater than the full time benefits because the full time people would not get that benefit. Attorney Wisneski exactly. Councilman Daley states under MERA the authority to negotiate rests solely with the Mayor and the Council cannot negotiate the terms and conditions of employment. Attorney Wisneski that is correct under both contract and MERA. Councilman Daley the union is the only one to negotiate and the employees can't negotiate. Has the union asked to bargain on this. Attorney Wisneski responds they have not.

Councilwoman Kasper states she read there would be negotiations; did that take place. Attorney Wisneski, the union has to negotiate for all their employees. Councilwoman Kasper states we as a Council we have a right to approve an MOU with a financial impact. Attorney Wisneski you can't supersede negotiations. They should have been part of the negotiation. Attorney Wisneski states we are not involved in who they include in their negotiations. Councilwoman Daley states an accrued right shall not be appealed. Attorney Wisneski states they did not have an accrued benefit of 15 years. In order to accrue a benefit you have to have the 15 years. The collective bargaining agreement supersedes the ordinance. It would trump an ordinance.

Councilman Daley wanted to raise in the packet Kimba gave us on Monday, it was referenced with an affidavit from the former Personnel Director. It was not a real affidavit and it was a letter that I have to say I don't read it quite the way it is interpreted in Monday's packet. The letter, the operative sentence was to have them take the benefit through the time of the target date and the City was going to suspend the free HMO and review things on a case by case basis and there was no promise of a free HMO and have to fall back to the MOU and looking at the package and the memo from Debra on Feb 6 is very clear. With all due respect and the impression you had, it is not backed up by the documentation. It is important to keep in mind the MOU the union was successful in negotiating is a benefit greater than what other employees in the City get.

Councilman Giuliano wants to make sure they have everything relevant to the issue. Attorney Wisneski responds she has additional emails from your office when you were Mayor and Debra that say the same things. They explain the process and that there was going to be a retirement offer. You have what I have and I asked them to produce the document they said they have, but I have not received it nor have I found it. Councilman Giuliano asks is anything inconsistent to what we have here. Attorney Wisneski no. Councilman Giuliano states could the mayor and union negotiate; does MERA prevent that. Attorney Wisneski are you saying with respect to the crossing guards only. Councilman Giuliano yes, those nine who were in the City's hire prior to Mar. 9. Could that happen. Attorney Wisneski states they could. Councilman Giuliano states the union has to do it on behalf of its members with the Mayor. We can't initiate that and they can't individually initiate that either. If this were to occur in proper format we could then approve or not approve what came out of that. Attorney Wisneski yes; but we have to think about the other 500 other 466 employees.

Attorney Wisneski responds to one thing: an MOU is made for the resolution of an issue, but to her there is no issue because the Contract is clear. A MOU comes out when there is ambiguity in the contract. Councilman Giuliano the documents speak for themselves. If someone can open it who can, then it would be properly before us. Kathy Morey with regard to any other documents existing and making it known, I did bring copies of the contract that was negotiated after the signing of the MOU. This is the contract effective to 2014 that the benefits for the nonpension employees were bargained and included.

Attorney Wisneski offers a copy of the letter from Debra Milardo.

Jeff Daniels, President of Local 466, states he came this evening listening to the discussion, he did meet with Kori and the Mayor. There was a document everyone was looking for that he could not find and in order for him to enter into opening a contract to get something for small group, it would have to include impact with the city. It was clearly stated in the MOU and they didn't get it because they didn't have the 15 years. His can only go so far. He will go back to Council 4. When you ask Kori did I do it, we just finished negotiating it how do you reopen it and deal with the impact on the town. He did not think it was something he could do. Without this one document, they were dead in the water. Councilman Serra states Councilman Giuliano was mayor and he was trying to remember and we have done everything to take care of everyone. Grandfather was for the 15 and they are now covered under the contract. Trying to remember how it was done I do remember talks of the crossing guards that were here and what it meant to them and it was not clearly stated. He thought that employees building up to the time, that clause covered them. It does make sense and puts him in a situation with Council 4, the City and the liability. He was thinking it was added in the contract and they were hired with an ordinance and knew after 15 years they would have free insurance and then added on anyone after would pay. I don't have an MOU that they were grandfathered. They worked 13 years for the benefit and the union stepped up and we have to protect them and we added them to the contract. He has not dealt with this before and is at a loss.

Councilman Daley states you were successful in gaining a benefit for the crossing guard. They are grandfathered. It is clear with the language for all employees prior to March 9, 2009 would enjoy a benefit that no one hired after that date would enjoy. There is a tangible benefit. As far as opening it up, from my experience, if the Union were to request to open this up, the City would have an obligation to consider it in good faith but would not be obligated to negotiate midterm.

Council 4 is telling you would you give nine employees something the 499 members don't have. That is between the union and the mayor. You didn't do anything wrong and you did a good job in getting what you got in 2009

Councilman Giuliano would yield to Councilman Serra. Councilman Serra was on Personnel and reads the Council minutes relative to grandfathering and my understanding it at the time. Page 18 of the minutes he reads his comments; they are grandfathered with this. I supported it because that is what I believe and it is stunning to look at personnel review and there are no crossing guards at all at the meeting. For me as a Councilman at the time, it is coming back it was grandfathered. We can only vote yes or no on an MOU. It was grandfathered for him. The word is confusing relative to the documentation.

Councilman Giuliano states one of the things complicating this one was the grandfathering for lack of a better word for those covered by the ordinance. The other thing was the HMO which was not part of the contract or part of the ordinance. It was volunteered by the City because it was cheaper to have them under HMO without their paying; those numbers changed and we were going to cut it off and a number of employees with 15 years in were offered the opportunity to retire; at best what we have is if there was an intention to grandfather, it would default back to the ordinance. The understanding of everyone who didn't retire should have been we are covered by the ordinance, that might have been a reasonable understanding. It didn't just apply to cafe workers managers and crossing guards, it applied to all nonpension members of the union and is detailed as to what happens. Was there another MOU that created a financial responsibility, it would have come to the Council. Attorney Wisneski checked every MOU and this is all I found. Councilman Giuliano states if it existed, there would be a paper trail and it would have had to show up in a Council meeting to allow us to sign it. This appears to be the only thing we have.

Attorney Wisneski states in the PRC meeting February 2009, Maria Paine was there a school crossing guard is represented and I don't see confusion with the MOU and it was answered in the contract right after that, Section 5 subsection B and she reads it. The benefits fall under article 20. This contract is clear and was negotiated in good faith with the union and administration and approved by the Council.

Councilman Giuliano states this supersedes. Attorney Wisneski states it is the controlling document at the time and it exists and you ratified the contract in the last six months and it did not change health benefits. Councilman Giuliano states appendix D has the MOU that are carried forward. Attorney Wisneski this change did not just affect these individuals, it is from the caf workers and she did not get similar requests from those individuals and that is telling. The individuals were grandfathered to have health benefits if they work 15years; current crossing guards do not get health insurance when they retire.

Councilman Giuliano this contract controls; lets presume that is where we are today; if the union wants to bargain on behalf of this group it would start the ball rolling; they can't do anything. Attorney Wisneski states bargaining comes from ambiguous language and it does not exist here. Councilman Giuliano that is a judgment call and we are the backstop.

Councilwoman Kasper states she was thinking back and she agrees with Councilman Serra we understood it was grandfathered with the ordinance and it was free at the time. That came to Ordinance Study and it was reviewed at length. Maybe some place in those minutes, it might state what grandfathering means.

Councilman Daley states at the risk of further confusing and complicating this, it occurs to me that someone mentioned that the grandfathering applied to keeping the ordinance in and in looking at the ordinance, says any employee who retires after 15 years and includes the word retire. To me that is retiring from City Service, you have a pension and you don't necessarily apply it that way and most employers would interpret it that employees have a benefit and they would not because they were part time. The MOU is interpreting it that way. Even if it was grandfathering the ordinance, it still would not get you benefits and the contract is very clear and Debra Milardo's memo is very clear in that it states after this date you will pay according to the contract. I understand there was a misunderstanding and are disappointed, but the documentation doesn't show that.

Ms. Vestergaard states she would not be here if it was clear; even the council members see it differently. At every meeting with Mayor Drew, there was an attorney with him. He did not show that he would do anything in good faith. There was never an offer from Mayor Drew except behind an attorney. In 2009 I had 14 years and six months and no one made that offer and reward me for being an honest reliable employee. We were supposed to have a meeting and that did not happen. The communication between the city and our special group is nil. The small group tried to handle this with little upheaval. We tried to come to the Council as people working for the city and taxpayers to negotiate and make you aware. This is not about legality. As you all stated it is about good faith and coming to a resolution and doing the right thing. This will not affect all 466 members only those with a split shift for 20 hours a week and no pension. There is no growth and that is why it is offered to us. What would you do if it was taken from you. This can be changed. The second meeting with Mayor Drew that the contract is and what is your offer and there was never one and he said even if he had one there was the possibility that the council

would not pass it because of money. There was a crossing guard with 15 years and financially she could not retire. The Mayor's always said never give up a job or insurance. You have the power to influence people to make this happen and that is what we are asking. Have the Mayor do what he promised and negotiate with us in good faith.

Ms. Adams states she finds it interesting that when we get this packet and talk with anyone, they get it. They took something you were guaranteed when you were hired. Can the Mayor negotiate it and Kori said yes; they don't want to. Jeff Daniels did make a proposal. They didn't want to consider it. I don't know if she showed our proposal to the Mayor. We are asking to open the conversation to make it done. We were not notified of meetings taking place. I gave up a corporate position because I knew I needed to take care of my parents. Where is my right. I accrued it when I said I would work for the City.

**3. Public Comment Closes.**

The Acting Chair closes public comment at 8:13 p.m.

**4. Meeting adjourned.**

Councilman Bauer moves to adjourn and is seconded by Councilman Giuliano. The vote is called and it is unanimous to adjourn. The Acting Chair adjourns the meeting at 8:13 p.m.

ATTEST:

MARIE O. NORWOOD  
COMMON COUNCIL CLERK